



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

09L-05

January 21, 2009

MEMORANDUM

TO: THOMASENIA P. DUNCAN
GENERAL COUNSEL

THROUGH: JOSEPH STOLTZ *JS*
ACTING STAFF DIRECTOR

FROM: JOHN D. GIBSON *JG*
CHIEF COMPLIANCE OFFICER

PATRICIA CARMONA *PC*
ASSISTANT STAFF DIRECTOR
REPORTS ANALYSIS DIVISION

BY: MADELYNN LANE/REBECCA HOUGH
REPORTS ANALYSIS DIVISION

SUBJECT: REFERRAL OF WYNN FOR CONGRESS

The Reports Analysis Division (RAD) is referring Wynn for Congress ("the Committee") to the Office of General Counsel (OGC) for failing to refund \$3,884.28 in Primary contributions received after the 2008 Primary election and for failing to refund \$115,100.00 in General election contributions after losing the 2008 Primary.

The Committee is the Principal Campaign Committee for Albert Wynn, a candidate in the 2007-2008 Election Cycle for Maryland's 4th Congressional District. The candidate lost the Primary election on February 12, 2008 with 37.2% of the vote, and therefore did not participate in the 2008 General election.

If you have any questions regarding this matter, please contact Madelynn Lane at 694-1396 or Rebecca Hough at 694-1165.

Attachments

10044272882

REPORTS ANALYSIS REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: January 21, 2009

ANALYST: Rebecca Hough

- I. COMMITTEE: Wynn for Congress
C00253377
Curt Clifton, Treasurer (10/15/08 – Present)
Gregory Holloway, Treasurer (12/10/01 – 10/15/08)
1825 Eye Street NW
Washington, DC 20006
- II. RELEVANT STATUTE: 2 U.S.C. §441a(a)(6)
11 CFR §110.1(b)(3)(i)
11 CFR §102.9(e)(3)

III. BACKGROUND:

Receipt of Primary Contributions after Primary Election and Receipt of General Contributions when Candidate Did Not Participate in the General Election

Wynn for Congress ("the Committee") failed to refund contributions totaling \$3,884.28 from two (2) individuals, four (4) political action committees, and one (1) party committee that were designated for the Primary election and were received after the date the candidate lost the Primary. In addition, the Committee failed to refund contributions totaling \$115,100.00 from twenty-four (24) individuals and twenty-two (22) political action committees that were designated for the 2008 General election.

On February 12, 2008, Congressman Albert Wynn lost the Primary Election.

On April 15, 2008, the Committee filed their 2008 April Quarterly Report covering the period from January 24, 2008 through March 31, 2008 (Image 28990809278). This report disclosed contributions totaling \$32,602.26 from four (4) individuals, one (1) partnership, twenty-one (21) political action committees, and one (1) party committee that were designated for the Primary election but received after the Primary election. The report disclosed no outstanding loans or debts.

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In addition, the Committee's reports through the 2008 April Quarterly Report disclosed that the Committee received a total of \$115,100.00 in contributions from twenty-four (24) individuals and twenty-two (22) political action committees that were designated for the 2008 General election (Attachment 2).

On May 20, 2008, a Request for Additional Information ("RFAI") was sent to the Committee referencing their 2008 April Quarterly Report (Image 28039732710). Among other items, the RFAI noted the Committee's receipt of excessive Primary after Primary election contributions and General election contributions and requested that the Committee take corrective action.

On June 20, 2008, the Committee filed a Miscellaneous Document Submission (Form 99) notifying the Commission of the resignation of its treasurer, Gregory Holloway, and stating that all further correspondence should be sent to the Committee's former treasurer, Curt Clifton (Image 28039752255).

On August 19, 2008, Scott Thomas, committee representative, called the Reports Analysis Division Analyst ("RAD Analyst") and stated that the RFAI had only recently been brought to his attention. Additionally, Mr. Thomas stated that the Committee wished to terminate their filing obligations. The RAD Analyst explained that prior to terminating, the Committee would be required to correct any outstanding matters. The RAD Analyst also informed Mr. Thomas that the previous treasurer of the Committee had submitted a letter of resignation to the Commission and a new treasurer needed to be named by the Committee (Attachment 4).

On August 25, 2008, Katie Phillips, committee representative, called the RAD Analyst to inquire how the Committee could best attempt to terminate. The RAD Analyst reiterated the need for corrective action of excessive contributions prior to attempting to terminate (Attachment 4).

On August 27, 2008, Ms. Phillips called the RAD Analyst to explain the Committee was having difficulty obtaining records from the previous compliance staff (Attachment 4).

On August 27, 2008, the Committee filed a Miscellaneous Electronic Submission (FEC Form 99) that stated in part:

"...we are examining the proper calculation of post primary debt and we anticipate that some of the contributions can be proven permissible to post primary debt retirement. We are also obtaining copies of general contribution redesignation letters in order to make the appropriate changes to the 1st quarter report." (Image 28991947413)

On October 9, 2008, Mr. Thomas called the RAD Analyst to state that the Committee was still in the process of attempting to amend the 2008 April Quarterly Report and to file the 2008 July and October Quarterly Reports (Attachment 4).

On October 15, 2008, the Committee filed an Amended Statement of Organization naming Curt Clifton the new treasurer (Image 28039751859).

Also on October 15, 2008, the Committee filed a Termination Report covering the period of April 1, 2008 through June 30, 2008. The report disclosed the refund of a General election contribution from a political action committee totaling \$1,000.00 (Image 28992552495).

On October 16, 2008, the Committee filed the 2008 October Quarterly Report covering the period of July 1, 2008 through September 30, 2008 (Image 28992622395). The report disclosed no financial activity.

On October 31, 2008, Ms. Phillips called the RAD Analyst and explained they would be filing an amendment to the 2008 April Quarterly Report and that contributions received after the Primary were intended for Primary debt retirement. The Committee also stated they were having difficulties uploading the amended report (Attachment 4).

On October 31, 2008, the Committee filed a FEC Form 99 that stated in part,

"...it seems the former Treasurer may not have understood the rules on handling general election contributions. It is clear he did not properly advise anyone else at the Committee about these rules. The Committee did not set these funds aside on Committee records or in a separate account. Instead, these funds were used to pay costs associated with the primary election. Because these funds are no longer available, the Committee is incapable of returning such contributions. However, the Committee is willing to use best efforts to raise the funds necessary to reimburse general election donors. In addition, the Committee hopes that the FEC will be willing to work with the Committee to find a reasonable solution to the oversight." (Image 28993093449)

On November 3, 2008, the Committee filed an Amended 2008 April Quarterly Report that disclosed \$3,884.28 in Primary contributions received after the Primary election from two (2) individuals, one (1) party committee, and four (4) political action committees (Attachment 3). The Amended 2008 April Quarterly Report did not disclose any refunds of General election contributions (Image 28993097321).

On November 13, 2008, a RFAI was sent to the Committee regarding the Termination Report stating that termination had not been approved since outstanding issues on the 2008 April Quarterly Report remained (Image 28039920796).

On November 20, 2008, Ms. Phillips called in reference to the RFAI sent on their Termination Report. The RAD Analyst stated that since the General contributions had not been refunded, the Committee would not be permitted to terminate (Attachment 4).

On November 21, 2008, the RAD Analyst spoke with Mr. Thomas and Ms. Phillips to inform them that due to General election contributions not being refunded, the Committee may be referred for additional action by the Commission (Attachment 4).

To date, no further communications have been received from the Committee regarding these matters.

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WYNN, ALBERT R

ID #H2HD05381

WYNN FOR CONGRESS
Clifton, Curt
FILING FREQUENCY: QUARTERLY

1825 Eye St. NW

Washington

HOUSE
DC 20006

ID #C00253377

10044272886

FORM	TYPE	RPT TYPE	AI	PGI	REC DATE	PGS	BEG IMAGE	COVERAGE DATES	BEG CASH	RECEIPTS	DISBURSE	END CASH	DEBTS BY
1			A		1/18/2007	4	27940058848						
1			A		6/20/2008	3	28038751858						
1			A		6/23/2008	2	28038752285						
1			A		10/15/2008	4	28892538385						
RS			4		1/28/2008	2	28990118914						
RS			4		1/29/2008	3	28830153843						
RS			4		1/31/2008	5	28990270089						
RS			4		2/03/2008	5	28990418229						
RS			4		2/05/2008	2	28830573313						
RS			4		2/07/2008	5	28990428384						
RS			4		2/08/2008	9	28990447428						
RS			T		4/03/2008	3	28038670261						
RS			T		5/19/2008	2	28038731206						
RS			T		8/27/2008	1	28891847413						
RS			4		10/29/2008	2	28834181082						
RS			T		10/31/2008	3	28893093449						
RS			T		11/21/2008	1	28893138980						
RS		Q3	2		10/30/2007	7	27038654838	7/01/2007 8/30/2007					
RS		12P	2		3/04/2008	6	28038651212	10/01/2007 1/23/2008					
RS		12P	2		4/15/2008	3	28038690484	10/01/2007 1/23/2008					
RS		Q1	2		5/20/2008	7	28039732710	1/24/2008 3/31/2008					
RS		TER	2		11/13/2008	3	28038920798	4/01/2008 8/30/2008					
3		Q1	N	P	4/13/2007	42	27930524057	1/01/2007 3/31/2007	91991	130350	47615	174728	0
3		Q1	A		1/28/2008	42	28830123861	1/01/2007 3/31/2007	91991	130350	47615	174728	0
3		Q2	N	P	7/13/2007	116	27990217680	4/01/2007 8/30/2007	174728	331022	106224	399524	0
3		Q2	A	P	7/16/2007	116	27990304329	4/01/2007 8/30/2007	174728	331022	106224	399524	0
3		Q2	A		1/28/2008	120	28830125040	4/01/2007 8/30/2007	174728	331022	106224	399524	0
3		Q2	A		4/02/2008	121	28890748425	4/01/2007 8/30/2007	174728	331022	106224	399524	0

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JYNN, ALBERT R

ID #H2RD05361

JYNN FOR CONGRESS

Clifton, Curt

1825 Eye St. NW

Washington

HOUSE

DC 20006

ID #C00253377

FILING FREQUENCY: QUARTERLY

FORM	TYPE	RPT	TYPE	AI	PGI	REC	DATE	PGS	BEG	IMAGE	COVERAGE	DATES	BEG	CASH	RECEIPTS	DISBURSE	END	CASH	DEBTS	BY
3	Q3	N	P			10/15/2007		78	27990785040		7/01/2007	9/30/2007	398524	131230	130488	400286	0			
3	Q3	A				1/28/2008		82	28830138048		7/01/2007	9/30/2007	398524	131320	130488	400376	0			
3	Q3	A				5/14/2008		82	28831532238		7/01/2007	9/30/2007	398524	131320	130488	400376	0			
3	12P	N	P			1/31/2008		218	28830307988		10/01/2007	1/23/2008	400376	418858	670788	146488	0			
3	12P	A	P			2/01/2008		219	28880414771		10/01/2007	1/23/2008	400376	418758	670788	146388	0			
3	12P	A	P			4/03/2008		241	28880781184		10/01/2007	1/23/2008	400376	418758	670788	146388	0			
3	Q1	N				4/15/2008		188	28880809278		1/24/2008	3/31/2008	148388	420397	553710	13053	0			
3	Q1	A				11/03/2008		198	28883087321		1/24/2008	3/31/2008	148388	422397	553710	15053	0			
3	Q3	N				10/18/2008		5	28882622385		7/01/2008	9/30/2008	125-	0	0	125-	0			
3	Q3	A				11/03/2008		5	28883087635		7/01/2008	9/30/2008	3874	0	0	3874	0			
3	30G	N	G			12/04/2008		7	28883375748		10/01/2008	11/24/2008	3874	0	0	3874	0			
3	TER	T				10/15/2008		11	28882532486		4/01/2008	6/30/2008	13053	851	14031	125-	0			
3	TER	A				11/03/2008		13	28883087620		4/01/2008	6/30/2008	15053	2851	14031	3874	0			
TOTAL															1434886	1522814				